

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

<b>MALIBU CONDOMINIUM,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>Docket No. 08-0401</b>
	)	
<b>COMMONWEALTH EDISON COMPANY,</b>	)	
	)	
<b>Respondent.</b>	)	

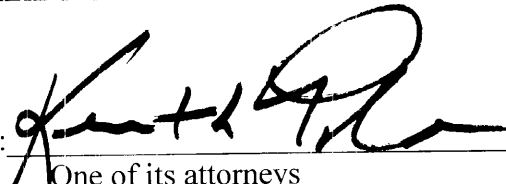
**PETITIONER'S ANSWER TO AFFIRMATIVE DEFENSES OF RESPONDENT**

The Petitioner, Malibu Condominium ("Malibu"), by its attorneys, Goldin, Hill & Associates, P.C., hereby answers the Affirmative Defenses filed February 17, 2009 by Respondent as follows:

1. Petitioner denies the allegations set forth in the First Affirmative Defense.
2. Petitioner denies the allegations set forth in the Second Affirmative Defense.
3. Petitioner denies the allegations set forth in the Third Affirmative Defense.
4. Petitioner admits that denies the allegations set forth in the Fourth Affirmative Defense and specifically alleges that Illinois courts have held that breach of the implied covenant of good faith and fair dealing gives rise to an action where, as in the present case, a party is alleged to have abused its discretion in performing a contract in bad faith.

Respectfully submitted,

MALIBU CONDOMINIUM

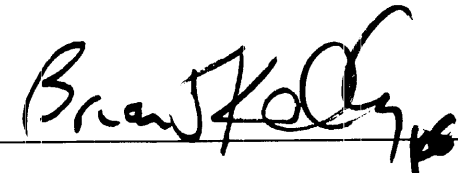
By:   
One of its attorneys

Kenneth G. Goldin  
Goldin, Hill & Associates, P.C.  
9100 Plainfield Road  
Brookfield IL 60513  
Tel: 708-485-8300  
FAX: 708-485-8301  
kgoldin@ghlaw.net

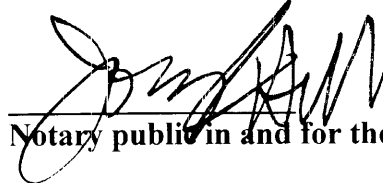
Dated: March 2, 2010

#### VERIFICATION

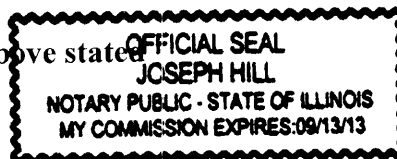
I, being duly authorized agent of Petitioner, first being duly sworn, say that I have read the above answer and know what it says. The contents of the answer are true to the best of my knowledge.

By:   
\_\_\_\_\_

Subscribed and sworn to before me on: March 2, 2010

  
\_\_\_\_\_

Notary public in and for the county above stated



**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

**MALIBU CONDOMINIUM,**

**Petitioner,**

**v.**

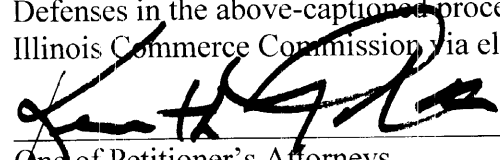
**COMMONWEALTH EDISON COMPANY,**

**Respondent.**

**Docket No. 08-0401**

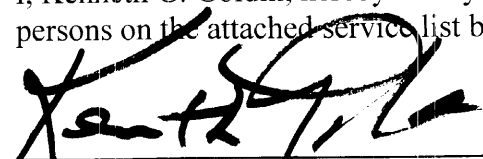
**NOTICE OF FILING**

Please take notice that on March 2, 2010 Malibu Condominium filed its Answer to Affirmative Defenses in the above-captioned proceeding with Elizabeth A. Rolando, Chief Clerk of the Illinois Commerce Commission via electronic mail.

  
\_\_\_\_\_  
One of Petitioner's Attorneys

**CERTIFICATE OF SERVICE**

I, Kenneth G. Goldin, hereby certify that a copy of the foregoing instrument was served on the persons on the attached service list by electronic mail on March 2, 2010.

  
\_\_\_\_\_  
Kenneth G. Goldin

Kenneth G. Goldin, Attorney for Malibu Condominium  
Goldin, Hill & Associates, P.C.  
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Brookfield IL 60513  
Tel: 708-485-8300  
FAX: 708-485-8301  
kgoldin@ghlaw.net

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### CERTIFICATE OF SERVICE

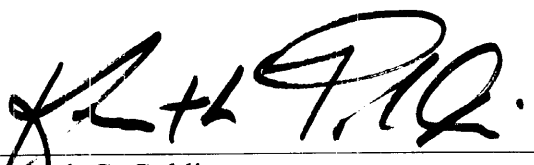
I, Kenneth Goldin, one of the attorneys for Malibu Condominium, hereby certify that copies of the foregoing pleadings were served upon the parties listed below, via e-mail, on March 2, 2010,, before 5:00 P.M.

- |   |  |
|---|--|
| 1. Eve Moran<br>Administrative Law Judge<br>Illinois Commerce Commission<br>160 N. LaSalle Street – Suite #C-800<br>Chicago, Illinois 60601-3104<br><a href="mailto:emoran@icc.illinois.gov">emoran@icc.illinois.gov</a>  | 4. Jerry D. Brown<br>Chico & Nunes, P.C.<br>333 W, Wacker - #1800<br>Chicago, Illinois 60606<br><a href="mailto:jbrown@chiconunes.com">jbrown@chiconunes.com</a>     |
| 2. Darryl Bradford<br>Senior Vice President & General Counsel<br>Commonwealth Edison Company<br>440 S. LaSalle Street – 33 <sup>rd</sup> floor<br>Chicago, Illinois 60605<br><a href="mailto:darryl.bradford@exeloncorp.com">darryl.bradford@exeloncorp.com</a> | 5. Edward C. Hurley<br>Chico & Nunes, P.C.<br>333 W. Wacker - #1800<br>Chicago, Illinois 60606<br><a href="mailto:ehurley@chiconunes.com">ehurley@chiconunes.com</a> |
| 3. John Parise, Jr.<br>Senior Administrator   |  |
-

Regulatory Strategies & Services  
Commonwealth Edison Company  
440 S. LaSalle Street – Suite #3300  
Chicago, Illinois 60605  
[john.parise@exeloncorp.com](mailto:john.parise@exeloncorp.com)

Dated March 2, 2010

By:

  
Kenneth G. Goldin

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